

# MEMO ENDORSED

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June 7, 2022

The parties' request is GRANTED. The parties' joint status letter will be due no later than 30 days after surreply briefing in *Mar-Can Transportation Co. v. Local 854 Pension Fund*, 20-cv-8743, is completed.

### VIA ECF

Hon. Victoria Reznik, USMJ  
United States District Court, SDNY  
300 Quarropas St.  
White Plains, NY 10601-4150

SO ORDERED.

  
Hon. Victoria Reznik, U.S.M.J.

June 8, 2023

**RE: *Allied Transit Corp. et al. v. Local 854 Pension Fund***  
**Docket No. 21-cv-10556 (CS)(VR)**

Dear Judge Reznik,

We represent Plaintiffs Allied Transit Corp., Empire State Bus Corp., and Empire Charter Service, Inc. (collectively, “Allied” or “Plaintiffs”) in the above-referenced case. We write jointly with counsel for Defendant Local 854 Pension Fund (the “Fund”) concerning the stay of proceedings entered November 30, 2022.

This case is related to *Mar-Can v. Local 854 Pension Fund*, 20-cv-8443, a case involving the same defendant and substantially similar legal and factual issues, in which summary judgment motions were filed in late March.

The obvious question has been whether the parties in this case should proceed to expert discovery and summary judgment, or whether the case should be stayed pending Judge Seibel’s ruling in *Mar-Can*, to avoid potentially duplicative litigation costs.

On November 30, 2022, Magistrate Judge Davison entered a stay of proceedings, and ordered the parties to submit a joint status letter no less than 30 days after the *Mar-Can* motion was fully submitted, recommending either a continued stay of proceedings or an updated case management order.

The *Mar-Can* motions were submitted on May 16. However, the Fund has since requested leave to file surreply papers, and the Court has ordered briefing on the Fund’s request. It appears that if leave is granted, the surreply briefing would concern issues relevant to this action, and would therefore affect the parties’ analysis on whether summary judgment motions in this action would be duplicative. The parties to this action respectfully submit that the *Mar-Can* motion will not be “fully submitted” for the purposes of the November 30, 2022 stay of proceedings, until after surreply briefing is denied or completed.

For the avoidance of doubt, the parties ask the Court to clarify that their joint status letter will be due no later than 30 days after surreply briefing in *Mar-Can* is either denied or completed.

We thank the Court for its time and attention to this request.

Hon. Victoria Reznik  
June 7, 2023

Respectfully submitted,

/s Jennifer S. Smith

Jennifer S. Smith

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